THE HON'BLE MRS JUSTICE T.MEENA KUMARI
&
THE HON'BLE MR JUSTICE G.CHANDRAIAH

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WRIT PETITION NO.13085 OF 2007

Dated: 22.06.2007

Between:

1. The State of A.P., rep., by its
   Principal Secretary to Government,
   General Administration (Services) Dept.,
   Secretariat, Hyderabad and another.

..Petitioners

And

Sri Banawath Reddy Naik,
Typist-cum-Assistant,
Home, Department, Secretariat, Hyderabad.

.. Respondent.

THE HON'BLE SMT. JUSTICE T.MEENA KUMARI
&
THE HON'BLE SRI JUSTICE G.CHANDRAIAH

WRIT PETITION NO.13085 OF 2007

ORDER: (Per Hon'ble Smt. Justice T. Meena Kumari)

This is a writ petition filed by the petitioners seeking to call for the records pertaining to the order of the tribunal dated 29.06.2005 and 30.11.2005 in O.A.No.2884 of 2005.

The respondent herein is the applicant before the Tribunal. He filed the above O.A., challenging G.O.Ms.No.248, dated 20.6.2005 terminating his services.

It is the case of the respondent-applicant that according to the order impugned therein, the applicant is facing criminal charges in criminal court and the case is only at the trial stage. At that stage, the petitioners-authorities passed the orders terminating the services of the applicant without any notice and thereby, they are violative of the principles of natural justice.

The Tribunal having observed that prima facie, no Government instructions or orders have been placed before the Tribunal to show that the person who is facing trial in a criminal case cannot be appointed to any post and that Rule 12 (1)(a)(ii) of A.P.S.S.S. Rules states that the appointing authority should satisfy himself about the character and antecedents and that as the applicant has already been appointed and working for the last three years in the department and the criminal trial is still pending and particularly, no notice was issued before terminating the services of the applicant, passed the interim orders suspending the G.O.Ms.No.248, dated 20.6.2005 for a period of 14 days and subsequently, the interim orders were extended till the VMA is disposed of. Having aggrieved by the same, the present writ

petition is filed by the petitioners-authorities.

Heard the learned Government Pleader for Services-II. Perused the material available on record.

It is an undisputed fact that the criminal proceedings are pending against the respondent-applicant and at this stage, the petitioners-authorities issued the G.O. impugned in the O.A., terminating the services of the respondent-applicant without prior notice. In this regard, the O.A. filed by the respondent-applicant, is pending. The order under challenge is an interlocutory one, against which the petitioners have already filed a vacate stay petition and the same is pending consideration before the tribunal. At this stage, the petitioners have approached this Court by way of this writ petition.

At this stage, the opinion, if any, expressed, it would touch the very merits of the V.M.A. as well as the main O.A. pending before the tribunal and thereby, it becomes subjudice. In this view of the matter, without expressing any opinion on the merits of the case, We feel that this writ petition cannot be maintainable and therefore, the same is liable to be dismissed.

Accordingly, the writ petition is dismissed. No order as to costs.

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Justice T. Meena Kumari

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Justice G.Chandraiah

Date: 22.06.2007
Nn/gurc

THE HON'BLE SMT. JUSTICE T.MEENA KUMARI

&

THE HON'BLE SRI JUSTICE G.CHANDRAIAH

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WRIT PETITION NO.13085 OF 2007

(Order delivered by the Hon'ble Smt. Justice T. Meena Kumari)

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Dated: 22.06.2007